



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

July 6, 2020

Matthew Hoppock
82866-74402483@requests.muckrock.com

Re: FOIA-2020-01227
DRH:VAV:ERH

Dear Matthew Hoppock:

While processing your Freedom of Information Act (FOIA) request dated November 4, 2019, for email of James McHenry mentioning the term "status docket" since January 1, 2018, the Executive Office for Immigration Review (EOIR) located material which it referred to this Office for processing and direct response to you. The EOIR administrative tracking number for this request is 2020-5124. For your information, this material was received in this Office on May 29, 2020.

Upon review of the seven pages referred to this Office by EOIR, I have determined that three pages are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Copies are enclosed. Additionally, I have determined that four pages should be withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), which pertains to certain inter- and intra-agency communications protected by the deliberative process privilege.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Valeree Villanueva, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001; telephone at 202-514-3642.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this Office's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically submitted within ninety days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas R. Hibbard", with a stylized flourish at the end.

Douglas R. Hibbard
Chief, Initial Request Staff

Enclosures

From: [McHenry, James \(EOIR\)](#)
To: [Hamilton, Gene \(OAG\)](#); [Wetmore, David H. \(ODAG\)](#)
Subject: Status Dockets
Date: Friday, August 9, 2019 12:01:00 PM
Attachments: [StatusDocket PM \(2\).docx](#)

We've been using "status dockets" for cases that have to be parked for a while due to a USCIS adjudication (or the 42B cap) in order to free up space on regular dockets. Although we have an official definition of status cases, some courts have apparently been using their own definitions, which has led to confusion and multiple questions from the private bar. As a result, we've drafted the attached policy memo to spell out the use of status dockets. Let me know your comments/thoughts.

Thanks.

From: [McHenry, James \(EOIR\)](#)
To: [Hamilton, Gene \(OAG\)](#); [O'Malley, Devin \(OPA\)](#)
Cc: [Sutton, Sarah E. \(OPA\)](#)
Subject: RE: Status dockets
Date: Tuesday, June 5, 2018 6:52:00 AM

Status cases are ones that cannot be completed on a normal time track due to case law, a statute, or a federal court order. Placing those cases on a separate docket prevents them from bottlenecking the stream of other cases on regular dockets that can be completed on a normal time track. It also ensures that EOIR can more efficiently track those cases and ensures that they do not slip through the cracks once they are ready to be returned to a regular docket.

-When were status dockets first introduced? **For several years, some immigration courts have been grouping cases awaiting USCIS adjudications on particular dockets, but the use of the label "status docket" became more widespread in 2017.**

-How does the DOJ define status dockets? **See Case Priorities and Immigration Court Performance Measures, Appendix A, Footnote 7 (Jan. 17, 2018), at <https://www.justice.gov/eoir/page/file/1026721/download>**

-How are immigration judges supposed to use status dockets? **The placement of a case on a status docket frees up additional space on a court's regular docket.**

-Are immigration judges supposed to use status dockets in relation to particular kinds of cases (special immigrant juvenile status etc.)? **See Case Priorities and Immigration Court Performance Measures, Appendix A, Footnote 7 (Jan. 17, 2018), at <https://www.justice.gov/eoir/page/file/1026721/download>**

-Does the DOJ have any comment on judges placing cases on status dockets to delay cases far in the future in lieu of administrative closure? **An immigration judge may only continue a case for good cause. Actual status cases are exempt from certain immigration court and immigration judge performance measures, but non-status cases incorrectly placed on a status docket are not.**

From: Hamilton, Gene (OAG)

Sent: Monday, June 04, 2018 9:23 PM

To: O'Malley, Devin (OPA) <domalley@jmd.usdoj.gov>; McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>

Cc: Sutton, Sarah E. (OPA) <sesutton@jmd.usdoj.gov>

Subject: RE: Status dockets

Defer to James on this.

Gene P. Hamilton

**Counselor to the Attorney General
U.S. Department of Justice**

From: O'Malley, Devin (OPA)

Sent: Monday, June 4, 2018 9:17 PM

To: Hamilton, Gene (OAG) <ghamilton@jmd.usdoj.gov>; McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>

Cc: Sutton, Sarah E. (OPA) <sesutton@jmd.usdoj.gov>

Subject: FW: Status dockets

Hey guys-

Can you provide some thoughts to the below, if possible? Notice the deadline.

Thanks

Devin
Devin M. O'Malley
Department of Justice
Office of Public Affairs
Office: (202) 353-8763
Cell: (b) (6)

From: Press

Sent: Monday, June 4, 2018 3:27 PM

To: O'Malley, Devin (OPA) <domalley@jmd.usdoj.gov>

Cc: Sutton, Sarah E. (OPA) <sesutton@jmd.usdoj.gov>

Subject: FW: Status dockets

Thank you - KS

From: Chase DiFelicianantonio <Chase_DiFelicianantonio@dailyjournal.com>

Sent: Monday, June 4, 2018 3:23 PM

To: Press <Press@jmd.usdoj.gov>

Subject: Status dockets

Good afternoon,

I am curious to know the following about the use of status dockets in immigration courts nationwide and in California specifically:

-When were status dockets first introduced?

-How does the DOJ define status dockets?

-How are immigration judges supposed to use status dockets?

-Are immigration judges supposed to use status dockets in relation to particular kinds of cases (special immigrant juvenile status etc.)?

-Does the DOJ have any comment on judges placing cases on status dockets to delay cases far in the future in lieu of administrative closure?

My deadline is Tuesday 6/5 at 3:00 p.m. PDT

Thank you,

Chase DiFelicianantonio

Reporter, CA Immigration

Los Angeles and San Francisco Daily Journal

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